

Federal Housing Finance Board

§ 966.9

NRSRO required under paragraph (c) of this section by July 1, 2001.

[65 FR 36298, June 7, 2000, as amended at 67 FR 12853, Mar. 20, 2002; 67 FR 35715, May 21, 2002]

§ 966.4 Form of consolidated obligations.

(a) All consolidated obligations shall be issued *in pari passu*.

(b) Consolidated obligations with maturities of one year or less may be designated consolidated notes.

§ 966.5 Transactions in consolidated obligations.

The general regulations of the Department of the Treasury now or hereafter in force governing transactions in United States securities, except 31 CFR part 357 regarding book-entry procedure, are hereby incorporated into this part 966, so far as applicable and as necessarily modified to relate to consolidated obligations, as the regulations of the Finance Board for similar transactions on consolidated obligations. The book-entry procedure for consolidated obligations is contained in part 987 of this subchapter.

§ 966.6 Lost, stolen, destroyed, mutilated or defaced consolidated obligations.

United States statutes and regulations of the Department of the Treasury now or hereafter in force governing relief on account of the loss, theft, destruction, mutilation or defacement of United States securities, so far as applicable and as necessarily modified to relate to consolidated obligations, are hereby adopted as the regulations of the Finance Board for the issuance of substitute consolidated obligations or the payment of lost, stolen, destroyed, mutilated or defaced consolidated obligations.

§ 966.7 Administrative provision.

The Secretary of the Treasury or the Acting Secretary of the Treasury is hereby authorized and empowered, as the agent of the Finance Board and the Banks, to administer §§ 966.5 and 966.6, and to delegate such authority at their discretion to other officers, employees, and agents of the Department of the Treasury. Any such regulations may be

waived on behalf of the Finance Board and the Banks by the Secretary of the Treasury, the Acting Secretary of the Treasury, or by an officer of the Department of the Treasury authorized to waive similar regulations with respect to United States securities, but only in any particular case in which a similar regulation with respect to United States securities would be waived. The terms "securities" and "bonds" as used in this section shall, unless the context otherwise requires, include and apply to coupons and interim certificates.

§ 966.8 Conditions for issuance of consolidated obligations.

(a) The Office of Finance board of directors shall authorize the offering for current and forward settlement (up to 12 months) or the reopening of COs, as necessary, and authorize the maturities, rates of interest, terms and conditions thereof, subject to the provisions of 31 U.S.C. 9108.

(b) COs may be offered for sale only to the extent that Banks are committed to take the proceeds.

(c) COs shall not be directly placed with any Bank.

(d) If a Bank participates in any CO denominated in a currency other than U.S. Dollars or linked to equity or commodity prices, then the Bank shall meet the following requirements:

(1) The relevant foreign exchange, equity price or commodity price risks associated with the CO must be hedged in accordance with § 956.6 of this chapter;

(2) If there is a default on the part of a counterparty to a contract hedging the foreign exchange, equity or commodity price risk associated with a CO, the Bank shall enter into a replacement contract in a timely manner and as soon as market conditions permit.

[65 FR 36298, June 7, 2000, as amended at 66 FR 8321, Jan. 30, 2001; 67 FR 12853, Mar. 20, 2002]

§ 966.9 Joint and several liability.

(a) *In general.* (1) Each and every Bank, individually and collectively, has an obligation to make full and timely payment of all principal and interest on consolidated obligations when due.

(2) Each and every Bank, individually and collectively, shall ensure that the

timely payment of principal and interest on all consolidated obligations is given priority over, and is paid in full in advance of, any payment to or redemption of shares from any shareholder.

(3) The provisions of this part shall not limit, restrict or otherwise diminish, in any manner, the joint and several liability of all of the Banks on all of the consolidated obligations issued by the Finance Board pursuant to section 11(c) of the Act (12 U.S.C. 1431(c)) and by the Banks pursuant to section 11(a) of the Act (12 U.S.C. 1431(a)).

(b) *Certification and reporting.* (1) Before the end of each calendar quarter, and before declaring or paying any dividend for that quarter, the President of each Bank shall certify in writing to the Finance Board that, based on known current facts and financial information, the Bank will remain in compliance with the liquidity requirements set forth in section 11(g) of the Act (12 U.S.C. 1431(g)), and the Finance Board's FMP or any regulations (as the same may be amended, modified or replaced), and will remain capable of making full and timely payment of all of its current obligations, including direct obligations, coming due during the next quarter.

(2) A Bank shall immediately provide written notice to the Finance Board if at any time the Bank:

(i) Is unable to provide the certification required by paragraph (b)(1) of this section;

(ii) Projects at any time that it will fail to comply with statutory or regulatory liquidity requirements, or will be unable to timely and fully meet all of its current obligations, including direct obligations, due during the quarter;

(iii) Actually fails to comply with statutory or regulatory liquidity requirements or to timely and fully meet all of its current obligations, including direct obligations, due during the quarter; or

(iv) Negotiates to enter or enters into an agreement with one or more other Banks to obtain financial assistance to meet its current obligations, including direct obligations, due during the quarter; the notice of which shall be accompanied by a copy of the agreement,

which shall be subject to the approval of the Finance Board.

(c) *Consolidated obligation payment plans.* (1) A Bank promptly shall file a consolidated obligation payment plan for Finance Board approval:

(i) If the Bank becomes a non-complying Bank as a result of failing to provide the certification required in paragraph (b)(1) of this section;

(ii) If the Bank becomes a non-complying Bank as a result of being required to provide the notice required pursuant to paragraph (b)(2) of this section, except in the event that a failure to make a principal or interest payment on a consolidated obligation when due was caused solely by a temporary interruption in the Bank's debt servicing operations resulting from an external event such as a natural disaster or a power failure; or

(iii) If the Finance Board determines that the Bank will cease to be in compliance with the statutory or regulatory liquidity requirements, or will lack the capacity to timely and fully meet all of its current obligations, including direct obligations, due during the quarter.

(2) A consolidated obligation payment plan shall specify the measures the non-complying Bank will undertake to make full and timely payments of all of its current obligations, including direct obligations, due during the applicable quarter.

(3) A non-complying Bank may continue to incur and pay normal operating expenses incurred in the regular course of business (including salaries, benefits, or costs of office space, equipment and related expenses), but shall not incur or pay any extraordinary expenses, or declare, or pay dividends, or redeem any capital stock, until such time as the Finance Board has approved the Bank's consolidated obligation payment plan or inter-Bank assistance agreement, or ordered another remedy, and all of the non-complying Bank's direct obligations have been paid.

(d) *Finance Board payment orders; Obligation to reimburse.* (1) The Finance Board, in its discretion and notwithstanding any other provision in this section, may at any time order any Bank to make any principal or interest

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payment due on any consolidated obligation.

(2) To the extent that a Bank makes any payment on any consolidated obligation on behalf of another Bank, the paying Bank shall be entitled to reimbursement from the non-complying Bank, which shall have a corresponding obligation to reimburse the Bank providing assistance, to the extent of such payment and other associated costs (including interest to be determined by the Finance Board).

(e) *Adjustment of equities.* (1) Any non-complying Bank shall apply its assets to fulfill its direct obligations.

(2) If a Bank is required to meet, or otherwise meets, the direct obligations of another Bank due to a temporary interruption in the latter Bank's debt servicing operations (e.g., in the event of a natural disaster or power failure), the assisting Bank shall have the same right to reimbursement set forth in paragraph (d)(2) of this section.

(3) If the Finance Board determines that the assets of a non-complying Bank are insufficient to satisfy all of its direct obligations as set forth in paragraph (e)(1) of this section, then the Finance Board may allocate the outstanding liability among the remaining Banks on a *pro rata* basis in proportion to each Bank's participation in all consolidated obligations outstanding as of the end of the most recent month for which the Finance Board has data, or otherwise as the Finance Board may prescribe.

(f) *Reservation of authority.* Nothing in this section shall affect the Finance Board's authority to adjust equities between the Banks in a manner different than the manner described in paragraph (e) of this section, or to take enforcement or other action against any Bank pursuant to the Finance Board's authority under the Act or otherwise to supervise the Banks and ensure that they are operated in a safe and sound manner.

(g) *No rights created.* (1) Nothing in this part shall create or be deemed to create any rights in any third party.

(2) Payments made by a Bank toward the direct obligations of another Bank

are made for the sole purpose of discharging the joint and several liability of the Banks on consolidated obligations.

(3) Compliance, or the failure to comply, with any provision in this section shall not be deemed a default under the terms and conditions of the consolidated obligations.

§ 966.10 Savings clause.

Any agreements or other instruments entered into in connection with the issuance of COs prior to the amendments made to this part shall continue in effect with respect to all COs issued under the authority of section 11 of the Act (12 U.S.C. 1431) and pursuant to this part. References to consolidated obligations in such agreements and instruments shall be deemed to refer to all joint and several obligations of the Banks.

65 FR 36298, June 7, 2000, as amended at 67 FR 12854, Mar. 20, 2002]

PART 969—DEPOSITS

Sec.

969.1 Definitions. [Reserved]

969.2 Deposits from members.

AUTHORITY: 12 U.S.C. 1422b(a)(1), 1431.

SOURCE: 65 FR 8266, Feb 18, 2000, unless otherwise noted.

§ 969.1 Definitions. [Reserved]

§ 969.2 Deposits from members.

Banks may accept demand and time deposits from members, reserving the right to require notice of intention to withdraw any part of time deposits. Rates of interest paid on all deposits shall be set by the Bank's board of directors (or, between regular meetings thereof, by a committee of directors selected by the board) or by the Bank President, if so authorized by the board. Unless otherwise specified by the board, a Bank President may delegate to any officer or employee of the Bank any authority he possesses under this section.